United Nations A/70/PV.95

General Assembly
Seventieth session

Official Records

95th plenary meeting
Friday, 13 May 2016, 10 a.m.
New York

President: Mr. Lykketoft ..... (Denmark)

The meeting was called to order at 10.10 a.m.

Agenda item 113 (*continued*)

Elections to fill vacancies in subsidiary organs and other elections

(c) Election of the Executive Director of the United Nations Environment Programme

Note by the Secretary-General (A/70/859)

The President: I invite members to turn their attention to the note by the Secretary-General contained in document A/70/859. In his note, the Secretary-General informs the General Assembly that in its decision 60/409, the General Assembly, on the proposal of the Secretary-General, elected Mr. Achim Steiner as Executive Director of the United Nations Environment Programme for a four-year term of office, beginning on 15 June 2006 and ending on 14 June 2010.

In its decision 64/420, on the proposal of the Secretary-General, the Assembly re-elected Mr. Achim Steiner for an additional four-year term of office, beginning on 15 June 2010 and ending on 14 June 2014. In its decision 68/416, on the proposal of the Secretary-General, the Assembly re-elected Mr. Steiner for an additional two-year term, beginning on 15 June 2014 and ending on 14 June 2016.

In accordance with section II, paragraph 2, of General Assembly resolution 2997 of the twenty-seventh session, of 15 December 1972, and following a thorough review and evaluation of the candidates proposed to succeed Mr. Steiner, the Secretary-General wishes to nominate Mr. Erik Solheim for election as Executive Director of the United Nations Environment Programme for a term of four years, beginning on 15 June 2016 and ending on 14 June 2020.

Accordingly, may I take it that the General Assembly wishes to elect Mr. Erik Solheim as Executive Director of the United Nations Environment Programme for a term of four years, beginning on 15 June 2016 and ending on 14 June 2020?

It was so decided.

The President: May I take it that it is the wish of the General Assembly to conclude its consideration of sub-item (c)of agenda item 113?

It was so decided.

Agenda item 7 (*continued*)

Organization of work, adoption of the agenda and allocation of items

The President: In order for the General Assembly to consider the report of the Fifth Committee under the sub-item, it will be necessary to reopen consideration of sub-item (b) of agenda item 114. May I take it that it is the wish of the General Assembly to reopen consideration of sub-item (b) of agenda item 114 and proceed immediately to its consideration?

It was so decided.

The President: Accordingly, the General Assembly shall now resume its consideration of sub-item (b) of agenda item 114.

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Agenda item 114 (*continued*)

Appointments to fill vacancies in subsidiary organs and other appointments

(b) Appointment of members of the Committee on Contributions

Report of the Fifth Committee (A/70/540/Add.1)

The President: The General Assembly will now consider the report of the Fifth Committee concerning a vacancy in the membership of Committee on Contributions as a result of the resignation of Mr. Kunal Khatri of the United Kingdom of Great Britain and Northern Ireland.

In paragraph 3 of the report, the Fifth Committee recommends that the General Assembly appoint Mr. Simon Hough of the United Kingdom of Great Britain and Northern Ireland as a member of the Committee on Contributions for a term of office beginning on 13 May 2016 and ending on 31 December 2017.

May I take it that it is the wish of the Assembly to appoint Mr. Simon Hough as a member of the Committee on Contributions for a term of office beginning on 13 May 2016 and ending on 31 December 2017?

It was so decided.

The President: The General Assembly has thus concluded this stage of its consideration of sub-item (b) of agenda item 114.

Agenda item 7 (*continued*)

Organization of work, adoption of the agenda and allocation of items

The President: Members will recall that the Assembly held its debate and concluded its consideration on agenda item 78 at its 49th plenary meeting, on 6 November 2015.

In order for the General Assembly to take action on the draft resolution, it will be necessary to reopen consideration of agenda item 78, "Report of the International Criminal Court". May I take it that it is the wish of the General Assembly to reopen consideration of agenda item 78 and proceed immediately to its consideration?

It was so decided.

Agenda item 78 (*continued*)

Report of the International Criminal Court

Draft resolution (A/70/L.47)

The President: I give the floor to the representative of the Netherlands to introduce draft resolution A/70/L.21.

Mr. Van Oosterom (Netherlands): I have the honour to introduce, under agenda item 78, draft resolution A/70/L.47, entitled "Report of the International Criminal Court".

In addition to the 62 countries listed in document A/70/L.47, 17 countries have indicated their wish to be included as sponsors of the draft resolution. It is my understanding that the Secretariat will read out the names of the countries involved. This brings the total number of sponsors to 79.

On 5 November 2015, following in the footsteps of her illustrious predecessors, the third President of the International Criminal Court, Judge Silvia Fernández de Gurmendi, presented the eleventh annual report of the International Criminal Court (see A/70/350) to this body (see A/70/PV.48). Once again we had a very constructive and in-depth debate that revolved around three basic elements: universality, cooperation and complementarity.

First, with regard to universality, in order to bolster the Court's success in fulfilling its mandate, universal adherence to the Rome Statute of the International Criminal Court remains essential. This year, we welcomed El Salvador as the latest State to accede to the Rome Statute, bringing the number of States parties to 124. It is our sincere hope that others will join in the near future. It is our firm opinion that all those that are committed to holding the perpetrators of international crimes to account should show no hesitation and become parties to the Rome Statute. Universal adherence to the Rome Statute is the only way to guarantee that perpetrators of the most horrible acts imaginable can no longer count on impunity.

My second point is on cooperation. Let me highlight that the situation with respect to the outstanding arrest warrants remains worrying. President Fernández de Gurmendi reminded us that the Court relies heavily on the cooperation of States and organizations at every step of the process — from investigation to arrests, from witness protection to the enforcement of sentences.

If States do not provide the cooperation necessary for the Court's functioning, in accordance with their legal obligations, the Court will not be able to fulfil its mandate and impunity will continue to flourish. The cooperation of States, international organizations and civil society remains essential.

We are pleased that the United Nations has continued to assist the Court in its endeavours through implementation of the Relationship Agreement. We have noted that the Court has expressed gratitude for the support it has received from the United Nations, but we have also heard its requests for attention to the ongoing challenges the Court is facing due to a lack of full cooperation. The only way to make progress towards our common goal of ending impunity is for all States, the United Nations, regional organizations and civil society to work together. We therefore commend the Court for expanding its interaction and cooperation with other international and regional organizations, institutions and entities all over the world.

My third point is about complementarity. The principle of complementarity is a hallmark of the Court, of course. The primary responsibility to comply with their obligations under the Rome Statute lies with national authorities. It is also their responsibility to address cases that involve crimes under the Court's jurisdiction. If the national authorities are able to do that effectively, the Court's investigations become superfluous. In view of the Court's massive workload, all States can do a better job in that regard, not only by improving the prevention of international crimes and the protection of civilians, but also by prosecuting the perpetrators of such crimes.

To conclude discussion of this issue, the eleventh report of the International Criminal Court and the ensuing debate once again emphasized the role of the Court in upholding the rule of law and human rights, but also in promoting peace and security. Sustainable peace cannot be achieved if the perpetrators of the most serious crimes go unpunished. Peace and justice remain complementary requirements, and together they serve as a trigger for development.

The Kingdom of the Netherlands continues to take pride in being the host State for the International Criminal Court. On 19 April, the Court moved to its permanent location, and in the presence of His Majesty King Willem Alexander, the Secretary-General, the principals of the Court and many other dignitaries, the inauguration ceremony of the new premises took place. As Mr. Bert Koenders, Minister for Foreign Affairs of the Netherlands, said at the event, the Court owes its existence to two basic human instincts: empathy and a collective resolve — empathy for victims and their loved ones, and the collective resolve to work together and shape our common future to ensure peace and justice. To put that empathy and resolve to the best possible use, we must all work together with the Court, for the sake of those victims and their loved ones, and for future generations.

The Netherlands reiterates its commitment to being a partner in the pursuit of peace, justice and development. Those three fundamental pillars are inseparable and form the cornerstone of the work of the Kingdom of the Netherlands here, within the United Nations.

I will now turn to the draft resolution itself, which continues to serve three main objectives. The first is to provide political support for the International Criminal Court, its mandate, its aims and the work it does. The second is to underline the importance of the relationship between the Court and the United Nations on the basis of the Relationship Agreement and the two bodies' central role in ending impunity and upholding human rights. Lastly, it serves to remind States and international and regional organizations of the necessity of cooperating with the International Criminal Court as it carries out its tasks.

The Netherlands presents draft resolution A/70/L.47 to the Assembly today with the desire that it once again be adopted by consensus. I hope that it will contribute to continued and even greater support for the Court in its fight against impunity and its efforts to hold the perpetrators of serious crimes accountable for their actions. Let us all continue to work together for peace and justice.

The President: We shall now proceed to consider draft resolution A/70/L.47.

Before giving the floor to speakers in explanation of position before action is taken on the draft resolution, I would like to remind delegations that explanations of position are limited to 10 minutes and should be made by delegations from their seats.

Mr. Zagaynov (Russian Federation) (*spoke in Russian*): During the prolonged negotiation process, our delegation repeatedly urged that we work together on

a pragmatic approach to the draft resolution before us today (A/70/L.47) and to our efforts to finalize it. It is regrettable that not everyone supported our constructive attitude. The amendments proposed by States that are not party to the Rome Statute were ignored.

In our view, such amendments are long overdue. The majority of the optimism-drenched provisions that are mechanically transferred, year after year, from one resolution on the report of the International Criminal Court (ICC) to the next have little in common today with the real state of affairs both in and around the Court. In the ICC's early years, however, such passages seemed more of an expression of the hopes that the international community had placed in the new judicial body. The Court was loudly proclaimed to be a new chapter in the history of international criminal justice, heir to the Nuremberg and Tokyo tribunals.

As time has shown, however, the Court has clearly not inherited the Tribunals' efficiency. The entire Nuremberg process was completed in the course of a year. In the almost 15 years of its existence, the ICC has handed down only four convictions, at a cost of more than $1 billion. It has worked significantly quickly only once, in 2011, when in just a few days, right when the NATO bombing of Libya began, it transitioned from a preliminary examination of the situation referred to it by the Security Council to a formal investigation of Muammar Al-Qadhafi.

And yet the long decade of civilian deaths in Iraq and Afghanistan is still at the preliminary examination stage. The perpetrators have not been named. The Prosecutor of the Court has recused herself from investigating the issue of civilian casualties of the NATO bombing strikes in Libya. There has been no visible progress in investigating the acts of insurgents. Such selectivity is hardly good for the image of any court with claims to impartiality and independence.

And the Court has procedural problems as well. We need only recall instances when cases that the Prosecutor had been investigating for years almost literally fell apart either because witnesses refused to testify or because the judges had to admit that their testimony was not credible. More than once, the poor quality of the evidence resulted in the Court's resources and time being spent in vain. On the Darfur file, the Court disregarded the international legal standards regarding immunity for State officials. In that regard, we understand the concerns that have been voiced by African States individually and the African Union as a whole. We continue to hold the view that the mere fact of the transfer by the Security Council of a case to the ICC does not strip away the immunity of officials of States that are not party to the Rome Statute. In such cases, the standards of international law are still fully applicable.

Finally, and probably most importantly, it is difficult to name even one case where the ICC would have made a real contribution to stabilizing the situation, ending the violence and mitigating the fate of the civilian population. The results of its five years of activity in Libya are particularly revealing in that regard.

Despite those issues, a number of delegations still refuse to allow anything in the General Assembly resolution other than praise and enthusiasm for the ICC. Its shortcomings were previously ascribed to the Court's infancy; now it is deemed to be at a difficult age. Calls for a balanced approach and realism are interpreted as a step backwards. That approach has meant, for example, that the draft resolution does not reflect something so obvious, from the standpoint of international treaty law, as the lack of obligations under the Rome Statute — including regarding cooperation with the ICC — on States that are not party to it. Such an attitude to the negotiation process on the part of States that are party to the Statute is likely to put a stake through the heart of the practice of adopting the resolution by consensus. It does not help the Court, either. The lack of truthful assessments of its activity prevents the Court from dealing soberly with the serious shortcomings of its work.

In conclusion, I would like to emphasize once again that with every passing year the resolution has less and less relationship to reality. In fact, it has become a funhouse mirror. My delegation therefore cannot support the text and we dissociate ourselves from the consensus on the draft resolution.

Mr. Saeed (Sudan) (*spoke in Arabic*): The Sudan would like to reaffirm the lofty goals that are the pillars of the United Nations: the maintenance of international peace and security, sustainable development and the protection and promotion of human rights, as well as dialogue, based on international cooperation, aimed at strengthening relations among States and achieving the peaceful settlement of disputes. In order to reach those goals, the Charter of the United Nations lays down principles that guarantee full respect for States'

sovereignty, non-interference in their domestic affairs and political independence, and territorial integrity. It also proposes international cooperation as a means of dealing with political and economic challenges and avoiding the use or threat of use of force in international relations.

We all agree that fighting impunity is a major objective in honouring and respecting justice, and it is a key responsibility for judicial bodies with a mandate to tackle such issues in accordance with their internal rules. Politicizing global justice in order to make it a kind of channel for attaining narrow goals runs counter to the joint efforts of the international community to apply justice and uphold the objectives of the Charter's purposes and principles. It also violates rather than strengthens the principles of international law, which is a key purpose of the United Nations.

I recall that the relationship between the United Nations and the International Criminal Court must take into account the independent and completely separate natures of the two bodies. No structural relationship should exist between them. The attempts of some States parties to the Court to make the General Assembly an assembly of States parties to the Rome Statute, which created the Court, are extremely worrying. My delegation has always categorically rejected that position, which is clearly reflected in the text that appears year after year. Time and again, the sponsors of the draft resolution try to put forward proposals for broadened interpretations that fail to reflect the spirit and the text of the report of the International Criminal Court. The report has a clear goal that should not be used to attain narrow goals within the United Nations.

The International Criminal Court is not a subsidiary body of the United Nations. It is an independent body under the Rome Statute. Within the framework of the bodies dealing with the Court's issues, it is out of the question to try to tie the two together. The Sudan will continue to stand up for that position and to call for respect for the Relationship Agreement between the Court and the United Nations, without allowing an expanded or mistaken interpretation of it. When informal discussions were held this year, some Member States resisted dealing with some issues raised by the Sudan concerning States that are not party to the Statute. Those proposals were rejected by the States parties to the Statute without explanation, but they were proposed only by States not party to the Statute, and that appears to be the only possible explanation.

The practices of the Court have revealed the ways in which it is becoming a tool of international conflict, a mechanism for politicization that is entirely focused on Africa and on targeting Africa's leaders. The African people see it as a court for powerful people to target and oppress the less powerful, while the problem of crimes being committed all over the world continues. Why does the Court fail to address those scandals? In theory, it is a global, international court, and it should be fighting impunity regardless of where it occurs. That is why my delegation is raising questions about the principles of integrity, impartiality and independence, and once again we get no answers.

The Court's current situation provides a logical, Cartesian response, which is that it has a unique mandate to target African countries, and only African countries. When President Museveni of Uganda was sworn in as President in Kampala on 12 May in a ceremony attended by President Hassen Al-Bashir of the Sudan, he reaffirmed in his statement the degree to which the Court targets the African continent and its States and leaders, as well as the importance for Africa's adopting a shared position against such practices. Mr. Museveni's statement is a reflection of the strong position taken by the African Union, its leaders and people against the Court's practices. That was evident in the questions raised by Kenya and the Sudan.

The relationship between the Court and the Security Council clearly polarizes the work of the Court. It is unacceptable to see political interests advanced through a judicial body. The Security Council is the organ mandated to refer some issues regarding States to a tribunal and to reject others. We all know who pays for that. A close relationship exists between certain political interests and various judicial bodies, and when that happens, such bodies do not adhere to proper legal principles. The Secretary-General's report must respect the content, spirit and text of the Rome Statute without expanding its interpretation of it or delving into political or politicized issues.

My delegation would like to express its concern about such interference with the International Criminal Court, about the Court's flagrant interference in the work of the General Assembly, and the repeated attempts to get General Assembly representatives to deal with Member States as if the Assembly were working for the Court and subordinate to it. We are not the only ones to voice such concern about the harmful

effect of voluntary contributions to the Court's work and budget. We know who is funding the Court.

Among countries of which we are all aware, there is a persistent lack of clarity. One of those issues is complementarity, and the first President of the Court has referred to "positive" complementarity. That issue has always been a channel for an expanded political interpretation, which prompted a European foreign minister to state that the Court's mandate did not apply to his country. He was correct. Its mandate targets only small and weak countries. States that are not party to the Rome Statute manipulate and use it as a tool for imposing their own foreign policy, in testimony to the Court's politicization. They are not parties to the Statute, yet they use the Court to advance their foreign policy aims.

In conclusion, we must all endeavour to work together to deliver justice and combat impunity through appropriate and honest judicial bodies. We cannot engage with the International Criminal Court when the Sudan is not a State party to it. In that regard, the Sudan has no concerns whatever about the draft resolution to be adopted today by the General Assembly. It does not apply to us and it requires no commitment on our part.

The President: We have heard the last speaker in explanation of position before action is taken on the draft resolution.

The Assembly will now take a decision on draft resolution A/70/L.47, entitled "Report of the International Criminal Court". I give the floor to the representative of the Secretariat.

Mr. Zhang Saijin (Department for General Assembly and Conference Management): I should like to announce that since the submission of draft resolution A/70/L.47, and in addition to those delegations listed in the document, the following countries have also become sponsors of the draft resolution: Antigua and Barbuda, Bangladesh, Barbados, Belize, the Plurinational State of Bolivia, Botswana, the Dominican Republic, Greece, Madagascar, Malta, Mongolia, Montenegro, the Philippines, the Republic of Moldova, Sierra Leone, Tunisia and Ukraine.

The President: May I take it that the Assembly decides to adopt draft resolution A/70/L.47?

Draft resolution A/70/L.47 was adopted (resolution 70/264).

The President: Before giving the floor to those wishing to speak in explanation of position on the resolution just adopted, I would like to remind delegations that explanations of position are limited to 10 minutes and should be made by delegations from their seats.

Ms. Argüello González (Nicaragua) (*spoke in Spanish*): The International Criminal Court was founded with the aim of judging crimes of genocide, war crimes and crimes against humanity and to ensure that justice for such crimes would prevail. However, that goal has been undermined by those who want to see their interests prevail over the safeguarding of national sovereignty and the principles of non-interference and non-intervention. Nicaragua rejects the double standards by which the International Criminal Court has acted to date. The Court does not judge all countries equally and only one continent has been affected by its judgements.

We would like to point out that Nicaragua is not a party to the International Criminal Court, but we consider our participation in the negotiations on today's resolution 70/264 to be of vital importance, because we are dealing with an issue on the United Nations agenda, and specifically that of the General Assembly, of which 193 States are members with equal rights. It is also crucial to ensure that non-party States participate actively in the negotiations. In the inspiring words of our President, Mr. Daniel Ortega Saavedra, the United Nations must fulfil its role of promoting dialogue, respect, understanding, sovereign security, peace and a future, without interference or influence, and by working on an equal footing — that is, with everyone, for everyone and for the good of everyone. May that be so.

Mr. Kamau (Kenya): Kenya acknowledges today's adoption of resolution 70/264, entitled "Report of the International Criminal Court", and we would like to thank the coordinator for steering the lengthy negotiations.

At the outset, we should recall the independent and separate nature of the relationship between the International Criminal Court (ICC) and the United Nations. Save for the Relationship Agreement between the United Nations and the International Criminal Court, there is no structural relationship between the two institutions. As the only General Assembly resolution that deals with the two institutions'

relationship, the resolution we have adopted today should address the most pressing challenges to the benefit of both partners and should neither be used to convert the General Assembly into an assembly of parties to the Rome Statute nor to Balkanize the United Nations membership into diametrically opposed groups on matters related to the Rome Statute.

In principle, treaties are binding only on State parties. According to the Vienna Convention on the Law of Treaties, the obligations of non-party States differ from those of State parties. That ought to be obvious. That is precisely why in many aspects, the Rome Statute makes different provisions for State parties and for non-States parties.

My delegation is frustrated by the process and the outcome of our negotiations this year. As one of the two African States parties that actively participated in this year's negotiations, Kenya notes that this technical rollover is largely attributed to the lack of flexibility of position adopted by some members and the rejection of the views of other members — even when those views were clearly informed by treaty law and practice.

Consequently, Kenya is of the considered opinion that the proposal made by a Member State on the obligations of non-States parties was consistent with international law, its interpretation and its application. Therefore, during the negotiations, the request by that Member State should have been accepted without any challenge whatsoever. Accordingly, we recognize and applaud the commitment of the delegations that put in extra effort to try to bridge that gap between Member States.

It is sad, but it would seem that some States would like to see the law of the jungle prevail among civilized States. There is a worrying trend whereby powerful States that have little or no regard for the primacy of the principles of international law seek, when and where its suits them, to skew the interpretation and implementation of international law and practice as we know it. As we have said before in this forum, might does not make right. The Rome Statute system must unshackle itself from the group of States that represent an ethos and jurisprudential paradigm that represents only one segment of the Assembly of States Parties. That group of States claims and exhibits proprietorship over the ICC and have hijacked the Court's operational mandate, thereby creating a distorted institution.

We want to see a resolution that is consistent with international law and, further, that truly addresses the most pressing challenge facing the two institutions, namely, the financing of the Security Council referrals. The General Assembly should not be prevented from exercising its mandate on this matter, as it is fully empowered to do by the Charter of the United Nations. In realization of the very urgent need to shift our emphasis to issues of seminal importance, we request that going forward, Member States consider changing their focus to best reflect the realities on the ground.

We want to see an interpretation and implementation of the Rome Statute that treats all Member States equally without artificial divisions and categorizations that depict one group as owners and gallant defenders of the ICC and the other group as the subjects of the ICC for which the ICC was established. This deeply pathological state of affairs has to be brought to heel. The artificial dichotomy between defenders and lowly subjects has not achieved much, and there is a need to see a radical change of heart and mind and reformation to ensure a level playing field for all States. Indeed, the survival of the ICC — as I have said here many times — very well depends on our forward movement in that regard.

In that vein, African States have tried to engage constructively with the ICC but, sadly, with little success. Our individual and collective efforts to initiate and develop an enabling environment for constructive dialogue with the ICC has met with marginal success, if not utter failure. While we remain fully committed to the fight against impunity, we are concerned that any attempt to discuss and interrogate our issues publicly and transparently continue to be met with stiff resistance under the guise of protecting the independence of the Court and its organs.

As members, our actions should ensure that the ideals enshrined in the Rome Statute are realized in a manner that the original drafters and authors envisaged. More importantly, our actions should ensure that this resolution is negotiated, interpreted and implemented in a manner that is consistent with the law while recognizing the social, cultural, economic and political realities that the world faces today.

In conclusion, peace and justice are what we all seek. Kenya is an unstinting champion of both. We believe in peace and justice. But, peace and justice cannot be founded on a deeply flawed institution that

creates false hope among millions of people who have had their human rights abused and their lives destroyed by ruthless individuals and powerful global and national powers. Kenya therefore calls for a complete overhaul of the negotiation process, the philosophical outlook and outcomes of this resolution. We hope that we will be able to embark on a better process in the future and to agree on a text of improved quality and greater relevance — a text that truly addresses the human rights that we all seek to uphold.

Mrs. Diéguez La O (Cuba) (*spoke in Spanish*): Our country reaffirms its intention to combat impunity, and maintains its commitment to international criminal justice, its attachment to the principles of transparency, independence and impartiality, and the unrestricted implementation of and respect for international law.

Cuba believes that it is appropriate that the International Criminal Court inform the General Assembly of its activities, as established in the Relationship Agreement between the United Nations and the International Criminal Court. Our country, although not a party to the Court, has been and is prepared to continue its active participation in negotiations of the resolution on the report of the International Criminal Court, which is adopted every year by the General Assembly, including just a few moments ago (resolution 70/264).

However, bearing in mind the nature of the resolution and its adoption within the General Assembly — a body of the United Nations that includes both States parties to the Rome Statute as well as non-party States with equal rights — it is indispensable that the negotiation of the resolution weigh and take into account the opinions and concerns of all the States members of the General Assembly.

Mr. Li Yongsheng (China) (*spoke in Chinese*): China welcomes the adoption of resolution 70/264, on the report of the International Criminal Court by the General Assembly.

China believes that the technical rollover reflects the compromise reached during the previous sessions of the General Assembly on the resolution. China joined the consensus. China attaches importance to the role of the International Criminal Court in safeguarding world peace, security, justice and prosecuting serious international crimes.

China hopes that the Court will perform its functions justly and avoid any politicization and judicial selectivity while ensuring that criminal justice is not achieved at the expense of peace, stability and national reconciliation. The Court and the United Nations are independent, although related, organizations. Cooperation between the two organizations should be conducted strictly in line with the Charter of the United Nations, the Relationship Agreement between the United Nations and the International Criminal Court and other relevant legal frameworks while respecting their respective mandates. The rights of non-party States to the Rome Statute should be fully respected, in accordance with international law.

Mr. Scappini Ricciardi (Paraguay), Vice-President, took the Chair.

Mr. Aldahhak (Syrian Arab Republic) (*spoke in Arabic*): The delegation of the Syrian Arab Republic is convinced of the importance of justice. It is for that reason alone that we were among the countries that actively contributed to negotiations on the Rome Statute, which led to the establishment of the International Criminal Court. My country was also among the first signatories to the Rome Statute. Our perspective has always been based on the importance of international justice being truly just in every sense of the word — free from politicization, selectivity and double standards. Unfortunately, that has not been achieved, as evidenced by a number of international issues, which I will not go into here.

Justice is a whole unto itself and should be exhaustive in order to ensure that those responsible within State Governments that work to destabilize other States, interfere in their internal affairs and bring down their regimes through the support of terrorism and violent extremism, the spread of chaos and destruction, and the shedding of innocent blood are brought to justice. We should avoid undermining the lofty principle of justice and tailoring it to the will of powerful States and their allies, as that is liable to undermine international relations and the very foundation of international law and the principles of the Charter of the United Nations. Justice cannot be transformed into a tool only used by the powerful against the poor or the weak. That would be a concrete expression of the law of the jungle 70 years after the establishment of the United Nations, and a century after the League of Nations and a number of international organizations that were founded to do away with the law of the jungle.

In conclusion, my country's delegation reaffirms its unswerving support for the statements made by the representatives of the Russian Federation and the Sudan. We support them and emphasize that we reject resolution 70/264 and the paragraphs contained therein.

Mr. Mendoza-García (Costa Rica): I have the honour to speak on behalf of Argentina, Australia, Austria, Belgium, Chile, Croatia, Cyprus, the Czech Republic, Denmark, Dominican Republic, El Salvador, Estonia, Finland, Georgia, Guatemala, Hungary, Iceland, Jordan, Liechtenstein, Luxembourg, the Netherlands, Norway, Palestine, Paraguay, Romania, Switzerland, Slovenia, Spain, Trinidad and Tobago, Uruguay and my own country, Costa Rica.

At the outset, we wish to reiterate our strong and outright support for the International Criminal Court (ICC). The ICC is the most significant achievement of the international community in its quest to put an end to impunity for mass atrocities, regardless of who commits them, and to provide justice to the victims.

Because these are global goals, the world demands that no State allow room for impunity. We celebrate El Salvador's accession to the Rome Statute, which brings the number of States parties to 124, and reiterate the importance of continuing to promote the Statute's universality. In joining the Rome Statute, States do not only support the International Criminal Court, but also undertake the obligation to investigate and prosecute the most serious crimes at the national level — a key contribution to ending impunity. The ICC is designed as a court of last resort, and it becomes active only where national judiciaries fail to do their work.

We welcome the consensual adoption at the seventieth session of the General Assembly of resolution 70/264, on the report of the International Criminal Court (see A/70/350), as well as the substantial number of sponsors. The resolution constitutes an important avenue to strengthen and improve the implementation of the Relationship Agreement between the United Nations and the International Criminal Court, which was approved by consensus by the General Assembly at its fifty-eighth session.

It is the task of all United Nations Members — irrespective of their relationship with the ICC — to follow up by adequately reflecting the ongoing cooperation between the two institutions, while addressing the most pressing challenges, for the benefit of both partners. In that regard, we believe it is very unfortunate that we were not able to advance the resolution this year. However, that should not stop us from addressing the challenges reflected in the annual report of the Court (see A/70/350).

Currently, there are a number of challenges. Cooperation between the United Nations and the ICC needs to be strengthened, and United Nations offices, funds and programmes should collaborate effectively with the Office of Legal Affairs as the focal point for such cooperation. The Secretary-General's guidance on contacts with persons who are subject to arrest warrants or summonses issued by the ICC are important and need to be implemented consistently.

The Court requires adequate financial resources to fulfil its mandate, and it is under constant budgetary pressure. We find it worrisome that it continues to carry out activities as a result of decisions made by the Security Council, but with no support from the United Nations budget. The General Assembly should therefore ensure the implementation of article 13, paragraph 1, of the Relationship Agreement.

With regard to referrals, our delegations believe that the Security Council should be consistent and coherent in its use of referrals and establish legally sound language for the referral of situations to the Court. That entails avoiding the inclusion of jurisdictional exceptions that go against the principle of equality before the law and endanger its own credibility and that of the Court. Furthermore, it is up to the Council to enforce its own decisions, which requires effective follow-up. In addition, we encourage the Council to consistently mandate the relevant peacekeeping missions to assist the Court in fulfilling its mandate.

The Rome Statute system is growing. The Court is extending its jurisdictional reach and is currently dealing with more cases and situations than ever before. Also, the relationship with the United Nations is becoming an even closer one, whether it is about technical support for ICC staff in situation countries or the exchange of information and good practices. Nevertheless, our job is not done, and all members need to continue to work together in order to fight impunity. We are committed to continue doing our part. We call upon all State parties to do the same.

Mr. Zamora Rivas (El Salvador) (*spoke in Spanish*): El Salvador co-sponsored resolution 70/264, on the report (see A/70/350) of the International Criminal Court as a way of expressing its support for the Court

and our strong commitment to the values that motivated its establishment. As evidence of this, on 3 March, in an emotional act of historical relevance for our country, the Republic of El Salvador deposited with the Secretariat its instrument of accession to the Rome Statute of the International Criminal Court and its two amendments adopted in Kampala. In doing so we became the 124th State party to the Rome Statute and twenty-ninth State party to the amendments to articles 8 and 27, on the crime of aggression. This is a clear demonstration of our willingness to contribute to the strengthening of the universalization of international criminal justice for heinous crimes, and our recognition of the work that the Court has carried out since its establishment.

We are not blind; we know the Court must improve and make progress. That applies to all institutions, beginning with our own — the General Assembly. However, it is one thing to ask for change and progress in international justice for this type of crime, but it is very different to try to surreptitiously establish, under the Vienna Convention, universal impunity for specific people. That destroys the principle we all aspire to that there could be a possible and future universal jurisdiction for crimes against humanity and similar crimes. We believe that the Court has already begun to issue its first judgements on the matters under its competence, thereby providing tangible proof that it is possible to close the gaps for impunity and that, when the national criminal justice system does not work, it is possible to activate the international criminal justice system.

The Republic of El Salvador is aware that great achievements have been made, but we also recognize that a great deal remains to be done, that we have a path beset with challenges and opportunities to advance this process, which has been undertaken and which opens the door to the prosecution of serious human rights violations and to the possibility of judging those who have committed crimes under the Rome Statute and, even more important, to the existence of a deterrent to the commission of these types of crimes.

We cannot ask the Court, with its resolution, to be a peacemaker. That is a role that we in the United Nations have to play. The Court's role is essentially to make clear through its judgements that serious and massive violations of human rights cannot be repeated and or increase and must be prevented.

I would like to conclude my statement by reiterating the deep commitment and support of my country to the work of the International Criminal Court. We urge those that have not ratified the Rome Statute and its two amendments to continue their process of analysis with a view to achieve in the near future full universality with the aim of promoting justice and peace among all people on the planet.

Mr. Luna (Brazil): Brazil welcomes the consensual adoption of resolution 70/264, on the report of the International Criminal Court (ICC). My country co-sponsored it as a means of expressing its unwavering support for the Court and our steadfast commitment to the values that motivated its establishment. The increased number of sponsors is another clear demonstration of the support that combating impunity for the most serious international crimes has in the General Assembly.

My delegation would have welcomed, however, a more ambitious text than a technical update of the resolution adopted during the sixty-ninth session of the General Assembly. The distance between this resolution and the challenges faced in the relationship between the United Nations and the ICC is not decreasing. We hope that, through continued transparent and inclusive dialogue, we can reverse this trend at the seventy-first session and deliver a text truly deserving of our shared goal of promoting the universalization of access to peace, security and justice.

I would like to reiterate my delegation's growing concern on an issue of a structural nature that relates to the core of the relationship between the Court and the United Nations, in particular the General Assembly. Despite the clear guidance provided by article 13 of the Relationship Agreement between the United Nations and the ICC in the sense that the United Nations must bear the costs of investigations and cases related to referrals by the Security Council, the Assembly has once again limited itself to merely acknowledging the fact that those expenses continue to be borne exclusively by States parties to the Rome Statute. It is regrettable that the resolution does not call upon Member States to actually address this issue. At a time when the Court faces an unprecedented workload and Security Council members frequently entertain the idea of referring situations to the ICC, we must objectively reflect on the sustainability of a system in which the costs of the implementation of such a decision are met solely by the States parties to the Rome Statute. It is also important

to bear in mind that the General Assembly has the exclusive responsibility over the consideration and approval of the budget of the Organization, as laid out in article 17 of the Charter of the United Nations.

Every new ratification of the Rome Statute is an important step towards the promotion of peace and justice. Brazil welcomes the recent accession of El Salvador to the Rome Statute and hopes that it serves to encourage others to become parties. Enhancing the universality of the ICC is a means of promoting peace and justice and of addressing a key international dimension of the rule of law that all States should commit to. International criminal justice should apply to all.

Mr. Ruiz Blanco (Colombia) (*spoke in Spanish*): Colombia, faithful to its commitments as a State party to the Rome Statute, today once again demonstrates its unwavering will to support the work carried out by the International Criminal Court by co-sponsoring resolution 70/264, which we adopted today, on the report (see A/70/350) of the International Criminal Court to the General Assembly.

The unswerving struggle of the Colombian State against impunity and its defence of the rule of law have been repeated on many occasions, even from the very start of discussions about the need to set up a permanent court that would contribute to taking up the most serious crimes committed against the international community as a whole.

Almost 14 years have passed since the entry into force of the Rome Statute and, since then, as demonstrated in the report that the Court has submitted to the Assembly for consideration, the purpose of that institution — to prevent heinous crimes from going unpunished — has been consolidated and strengthened. Colombia emphatically underscores the importance of supporting the Rome Statute and believes that the best way to do so is by strictly complying with its provisions. Undoubtedly, the universality of this instrument depends on that approach.

Colombia considers it important that Member States recognize that every step taken to bring about the end of armed conflict and reach sustainable and lasting peace needs receive the continuous support of all. Accordingly, Colombia will continue to support the ICC through such tools as the principle of complementarity, which is evident in our initiatives on transitional justice, reparation measures and institutional and legal reforms. In addition, the implementation of the Statute as an instrument of international justice cannot be seen to be in opposition to the achievement of peace, because, as we have argued repeatedly, peace and justice are not mutually exclusive goals. Colombia, which is currently experiencing a crucial moment in its history, is closer than ever to achieving peace, an agreed peace, and one with justice that puts the rights and needs of victims at its centre, and is a clear embodiment of this perspective.

Every State has an obligation to ensure peace in its territory. That obligation is part of its responsibility to maintain order and unity. We are committed to peacebuilding as the sole means by which the full enjoyment of human rights is guaranteed. For us, it is a basic fact that in a situation like that of Colombia, the pursuit of peace for its own sake also works in the interests of justice.

Mr. Horna (Peru) (*spoke in Spanish*): As a sponsor of resolution 70/264, adopted by consensus today, I wish to reaffirm Peru's commitment to the work undertaken by the International Criminal Court, which we consider to be the institution in the best position to prevent the most serious crimes from going unpunished. However, we reiterate our concern that we were once again faced with a draft text that showed little or no progress since the previous iteration, in spite of the special efforts made by States to hold constructive and fruitful discussions at the seventieth session with a view to achieving a robust resolution that clearly reflected current developments in the context of the relationship that should exist between the International Criminal Court and the United Nations. My delegation would like to recall the persistent problems linked to the financing of the Court, in particular in relation to referrals by the Security Council, which are financed solely by States parties to the Rome Statute and not by all States Members of the Organization, as was established in the Relationship Agreement.

Peru recognizes that international criminal justice continues to be an aspiration and that the International Criminal Court, a young institution in the international arena, needs more support and a high level of cooperation. Such support should come not only from the States parties to the Statute but from all Member States.

Finally, Peru, which belongs to the informal ministerial network for the International Criminal Court, attaches the greatest importance to the

universality of the Rome Statute, and therefore wishes to reiterate on this occasion its special pleasure at the recent ratification of the Rome Statute by our brother country El Salvador, which increases the number of States parties to the Statute to 124, thus bringing us closer to universality.

Mr. Tsymbaliuk (Ukraine): Ukraine co-sponsored resolution 70/264, on the work of the International Criminal Court (ICC), whose establishment we consider to be one of the most important human rights achievements in the past century. The ICC is the inarguable cornerstone of the international justice system, with its provisions that state that there can be no impunity for genocide, crimes against humanity or war crimes.

Ukraine has demonstrated its support for the system created by the Rome Statute on numerous occasions, starting with its active participation in the 1998 Rome Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, followed by the signing of the Rome Statute, on 20 January 2000. Ukraine was among the first non-State parties to ratify, on 18 October 2006, the Agreement on the Privileges and Immunities of the ICC, an essential mechanism for the effective functioning of the Court, thereby becoming a model for countries that still need to accede to the Agreement. We realize the importance of being a party to that universal legal institution, which combats impunity worldwide.

Ukraine has set the ratification of its own statute incorporating the Rome Statute into domestic law as one of its key priorities. To that end, following the signing of the Rome Statute, Ukraine carefully studied the approaches that other States had taken in tackling the complementarity issues and drafted a relevant amendment to ensure the compatibility of the provisions of the Ukrainian Constitution with the Statute.

We are attentively observing the developments in the field of international criminal justice. We consider the decisions taken at the Kampala Review Conference, in 2010, on, inter alia, amendments to the Rome Statute with respect to the definition of the crime of aggression and to the establishment of a regime of court jurisdiction over this crime, to be an outstanding example of how the international community should tackle the most challenging issues of the modern world — through intense debate and comprehensive scientific research towards a consensus that could not have been reached before the Court was established.

Today, Ukraine is in the final stages of the ratification process of the Rome Statute. In addition, the related package of documents submitted to the Parliament of Ukraine foresees the ratification of two 2010 Kampala amendments as well.

In the light of the current challenging situation in and around Ukraine, we fully recognize the necessity of ensuring the global jurisdiction and legitimacy of and support for the International Criminal Court. Ukraine strictly adheres to the principles of democracy, good governance, justice and the rule of law, and therefore strongly supports the activities of the Court in an effort to ensure universal commitment to fighting impunity.

Starting from 20 February 2014, Ukraine has been a victim of ongoing armed aggression carried out by the Russian Federation and Russia-supported militants and terrorists. As a result, part of its territory, the Autonomous Republic of Crimea and the city of Sevastopol, as well as several areas of the Donetsk and Luhansk regions of Ukraine, have been occupied. Thousands of Ukrainian nationals have been killed or injured. Infrastructure has been destroyed. Hundreds of thousands of people have been forcefully displaced and are seeking refuge. Those acts constitute the most serious crimes against humanity and war crimes, which fall within the jurisdiction of the International Criminal Court.

Accordingly, on 8 September 2015, the Government of Ukraine launched a declaration pursuant to article 12, paragraph 3, of the Rome Statute, whereby we accept the exercise of jurisdiction by the ICC in relation to crimes against humanity and war crimes committed by senior officials of the Russian Federation and the leaders of the terrorist organizations DNR and LNR, which have led to extremely grave consequences and the mass murder of Ukrainian nationals.

We believe that the ICC can provide one of the best ways to ensure that the perpetrators of international crimes are brought to justice. There, mass violations of human rights are recognized as such, and victims will receive redress for their suffering.

The Acting President: We have heard the last speaker on this item.

I give the floor to the representative of the Russian Federation, who wishes to speak in exercise of the right of reply.

Mr. Zagaynov (Russian Federation) (*spoke in Russian*): I will be brief. I wish to respond to the statement made by the Ukrainian delegation, which again included a host of anti-Russian insinuations that have nothing to do with the actual situation. We repudiate them as unjustified and irrelevant to the subject of today's meeting. However, since the Ukrainian representative mentioned the declaration that was made by his country in 2015, I should like to draw attention to the fact that it was compiled laboriously in such a way as to attempt to preclude the possibility of an investigation by the International Criminal Court into crimes perpetrated by the Kyiv Government and radicals loyal to that Government, the most flagrant of which is doubtless the tragedy that occurred in Odessa, the second anniversary of which was recently commemorated.

The Acting President: May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 78?

It was so decided.

The meeting rose at 11.30 a.m.